

Questionnaire for the Draft Framework Guideline on Harmonised transmission tariff structures¹

Please provide the Agency with your full contact details, allowing us to revert to you with specific questions concerning your answers.

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Please indicate, if your company/organisation is: Shipper or energy trading entity

- ~~a. European association~~
- ~~b. National association~~
- ~~c. TSO~~
- d. Shipper or energy trading entity ✓
- ~~e. End user~~
- ~~f. Other (e.g. Power Exchanges, Storage Operator etc.), namely:~~

Please provide, if relevant, reasoned indication if you wish to consider (part of) your response as confidential².

1 Further also referred to as “FG”. The resulting Network code on Harmonised transmission tariff structures is further also referred to as “NC”.

2 The Agency shall carefully consider all responses received (whether confidential or not) subject to the provision that anonymous responses or responses from respondents who do not want their identity to be made public will generally not be taken into consideration. The Agency will make public the number of responses received to formal consultations, the names of the respondents, and all non-confidential responses.

When writing your responses could you include how your arguments contribute to the objectives set out in section 1.2 of the draft Framework Guideline. For definitions please consult section 1.3 of the draft FG.

General Comments:

Gas Natural Fenosa is one of the leading multinational companies in the gas and electricity sector. The company operates in more than 24 countries.

Within the In the European Union, Gas Natural Fenosa activity is developed mainly in Spain. It is an active player in France, Italy and to a lesser extent in Portugal and Belgium. As a trading company, Gas Natural Fenosa is active in the following gas hubs: PEGs (France), NBP (United Kingdom), NCG (Germany), ZEE (Belgium), TTF (The Netherlands) and PSV (Italy).

We welcome the opportunity to respond to this consultation. We also consider that the implications of this framework guideline can be important and that the impact in existing contracts should be carefully addressed.

We would like to highlight the following key points:

- **Under recovery should be the exception and not the general rule.**
- **Short term capacity products should not have a lower price than long term capacity products**
- **Shippers should be able to cancel existing contracts and to adapt to the new rules if the new regime is detrimental to them.**
- **National and cross border entry and exit points should be treat equally. If this is not the case, a justification should be provided by the NRA. For example: the equalization approach should apply to both domestic and cross-border exit points.**
- **All entry and exit points should be in a level playing field. Artificial discounts should not be granted to certain infrastructures (such as storage) as they will distort the market.**

Respondents may request that information or data in their responses is treated as confidential. The Agency will assess, in co-ordination with the respondents requesting confidentiality, which information or data shall not be made public and may request from the respondents an explanation of their confidentiality interests and a non-confidential version of their response for publication. The Agency will evaluate confidential responses as transparently as possible without undermining the respondents' confidentiality interests.

1. General provisions. Scope, application, definitions and implementation (Chapter 1 of the draft Framework Guideline)

1.1. Please explain whether any of aspects of the application of the draft FG (NC) to existing contracts would cause disproportionate effects on gas business in relation to 3rd Package objectives? Please give reasons for your answer, including any quantitative evidence, tables and examples (if required, under confidentiality).

Impact on existing contracts

The draft FG includes several provisions, mainly on the pricing of short and long term, the treatment of under and over recovery and the payable price that will apply to both new and existing contracts. To this extent, the implications of these framework guidelines are likely to be greater than the other framework guidelines discussed so far and can lead to distortions on network users' commercial activity. In fact, we fear that:

- **Existing and new shippers might not be in a level playing field.**

In the recent years, shippers have been requested to take long term commitments in open seasons in order to trigger new investments in cross border capacity. In addition, these new investments can have capacity available, for example when NRAs decide to reserve part of the capacity for short term products.

In the absence of congestion, if short term capacity is now priced lower than long term capacity, shippers booking in the short term will be in a better position than the shippers that were requested to take binding commitments for triggering the new investment.

Shippers which have booked long term capacity in good faith, based on the previous tariff framework, could see their business strategy or commercial position being undermined. In addition, we question whether all existing contracts can be adapted to the new regime unless specified in the access contract.

Therefore, to limit the impact of the framework guidelines on tariffs, shippers should be able to cancel existing contracts if the new regime is detrimental to them.

- **Security of supply of the EU can be affected.**

The principle of security of supply appears on the Gas Regulation (715/2009) on conditions for access to the natural gas transmission networks. Article 1, Subject matter and scope, specifies the following:

“Article 1. Subject matter and scope

This Regulation aims at:

- (a) setting non-discriminatory rules for access conditions to natural gas transmission systems taking into account the special characteristics of national and regional markets with a view to ensuring the proper functioning of the internal market in gas;*
- (b) setting non-discriminatory rules for access conditions to LNG facilities and storage facilities taking into account the special characteristics of national and regional markets; and*
- (c) facilitating the emergence of a well-functioning and transparent wholesale market with a **high level of security of supply in gas** and providing mechanisms to harmonise the network access rules for cross-border exchanges in gas.*

The objectives referred to in the first subparagraph shall include the setting of harmonised principles for tariffs, or the methodologies underlying their calculation, for access to the network, but not to storage facilities, the establishment of third-party access services and harmonised principles for capacity-allocation and congestion-management, the determination of transparency requirements, balancing rules and imbalance charges, and the facilitation of capacity trading.”

- **Long term contracts provide benefits to the EU**

Long term gas contracts provide the following benefits to the European Union:

- They guarantee supply in a scenario of worldwide growing gas demand and increasing EU gas dependency (due to declining EU gas production).
- They underpin major investment in production facilities and transmission, specifically cross-border interconnections within the EU, and storage.
- They reduce volatility in the European gas hubs.
- They enable low hub prices. It should be noted that if the regulatory framework fosters short term over long term commitments, market players will rely more on short term gas supplies. Therefore, the gas supplies available to Europe will be the remaining gas after the internal demand of production countries (which is growing in some cases) and committed demand via long term gas contracts has been covered. It should be noted that the gas market for supplies is global and that the European Union has to compete with other countries such as China, Japan, India who commit long term. This would imply that the European demand, currently covered by

long term contracts, would be covered by spot gas. In a scenario of worldwide growing gas demand, hub prices could be higher in Europe in the absence of long term contracts.

- Gas producers might increase their market power in spot markets

Nowadays, long term gas contracts account for most of the gas supply to the European Union. In addition the natural gas energy dependency is high for the Union, and in particular for some countries. Russian gas accounts for around one third of the supply to the EU. Therefore, the risk of an increase of market power of gas producers should be considered.

Due to the previous reasons, we consider that the regulatory framework in the European Union, should

- Value the advantages that long term contracts provide, therefore, long term products should not be price higher than short term ones.
 - Acknowledge that long term contracting is compatible with short term one, the internal energy market and gas hubs.
- **Changes in the tariff regime can distort trade and affect competition.**

It should be noted that shippers are not always able to pass their transportation costs to final consumers. For example, shippers who sell their gas at the hub can only recover their transportation costs if the hub price is sufficiently high to cover the cost of gas and the cost of transporting the gas there. However, the hub price is driven by the supply (from different gas entries) and demand for gas on the day; if the cost of supplying the marginal therm is below that of other shippers' full costs it is entirely possible that some shippers will not recover their full transportation costs. Over the long term, if the shipper cannot recover all their costs and make a margin it will exit the business.

The shippers should be requested to support the commercial risk and if their gas is not competitive it is fair that they exit the market. However, it would not be fair if they exit the market due to the regulatory risk imposed by a change in the tariff framework, for example if short term pricing is lower than long term.

Finally, **Gas Natural Fenosa considers that the scope of the FG tariffs should include incremental capacity, both of existing interconnections and new ones.**

1.2. Please explain if any further definitions should be added for clarity of the FG (NC)?

1.3. Please suggest the top-5 *core indicators*³ for monitoring the future EU-wide implementation of the future tariff FG (NC)? ACER and ENTSO-G both have legal obligations to monitor NC implementation (in accordance with Article 9 (1) and Article 8(8) of Regulation (EC) No 715/2009 respectively).

2. Cost allocation and determination of the reference price (Chapter 2 of the draft Framework Guideline)

2.1. Transparency provisions

2.1.1 Do you agree with the level of harmonization proposed for the transparency in relation to tariffication methodologies⁴?

- a. Yes, because.....;
- b. No, because.....;
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please specify if (and how) the proposed text in the draft FG should be further detailed and clarified.

No.

³ An example of a *core indicator* could be e.g. the relative size of (positive or negative) Regulatory account in comparison to overall Tariff revenues, indicating under- or over recovery of the tariff regime in a specific entry- and exit zone.

⁴ Article 18(2) of Regulation 715/2009 states that: “In order to ensure transparent [...] tariffs [...], transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure”. The proposed text in the draft FG seeks to ensure such reasonable and sufficient detailed information.

The FG asks for transparency and signals the key points: capacity utilization and subscriptions, evolutions on tariffs, assumptions on costs, etc. However it does not determine the detail of the transparency requirements. In particular, we doubt that the transparency requirements are enough to allow shippers to replicate the model.

A barrier that might hinder cross-border trade is the artificial increase of investment costs. To overcome this barrier, Gas Natural Fenosa asks to include a provision in the FG tariffs to ensure there is clear evidence from the TSOs that their costs in interconnections are efficiently incurred. In this regard, information on investment costs: €/diameter, €/km, €/compressor station of the TSOs should be provided to allow network users to objectively check whether TSO incurred costs are efficient. In addition, an EU benchmarking of investment costs among EU TSOs should be provided by ACER.

2.1.2 Would you support additional requirement(s) to ensure “reasonable and sufficiently” detailed tariff information⁵? For example, one could consider including a provision such as: “the transmission system operators or relevant national authorities shall provide additional information if a significant tariff fluctuation is expected on a specific or on all entry- and exit points”.

- a. Yes, such as.....;
- b. No, because.....;⁶
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose alternative levels of harmonization or wording to that proposed?

⁵ Article 18(2) of Regulation 715/2009 states that: “In order to ensure transparent [...] tariffs [...], transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure”.

⁶ Please consider specifically if there are legal barriers in your jurisdiction(s), preventing such level of transparency. E.g. it might be that the transmission system operators or relevant national authorities could be liable for such a ‘prediction’.

The transparency requirements should always apply, no matter if there are significant tariff fluctuations or not.

In addition, information should be published in English.

2.2 Cost allocation and reference price setting methodology, general questions.

2.2.1 Do you agree with proposed level of harmonization for the reference price setting methodology, aiming for same methodology for all types of network users per one entry-exit zone?

- a. Yes, because.....;
- b. No, because.....;
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose alternative levels of harmonization to that proposed?

Yes.

Using the same methodology for all types of network users per one entry-exit zone avoids discrimination and cross subsidies.

2.3 Cost allocation and the Reference price setting methodology, detailed questions.

2.3.1 Do you agree with proposed option for setting reference prices for entry capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?

- a. Yes, because.....;
- b. No, because.....;
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose alternative measures or e.g. additional cost drivers' examples as to those proposed?

We have some caveats regarding the use of distance as a major cost driver as in meshed networks gas do not have a pre-defined transport route.

2.3.2 Do you agree with proposed option for setting Reference prices for exit capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer. Would you propose alternative measures or e.g. additional cost drivers' examples as to those proposed?

As for the entry points, we have some caveats regarding the use of distance as a major cost driver as gas does not have a pre-defined transport route in meshed networks. The framework guidelines allows for equalization of domestic exit points.

We consider that if the equalization approach is chosen by the NRA for exit points, it should apply to both domestic and cross-border exit point. If this is not the case, the NRA should justify why it distinguishes between them. For example, in case the NRA decides to foster cross-border trade and reduce the exit tariff.

2.3.3. Do you agree with the cost allocation principle that revenue from entry points should equal 50% of revenue from all entry and exit points?

- a. Yes, because.....;
- b. No, because.....;
- c. No opinion, because.....

Please give reasons your answer, including any quantitative evidence, tables and examples. Would you propose alternative levels of harmonization to that proposed? Please specifically consider how this affects cost-reflectivity and cross-subsidies between different types of network users, and quantify in which circumstances a deviation from such a '50%' rule would be necessary, and why.

Yes. The 50-50 split seems a reasonable approach. Deviations could be allowed if justified by the NRA, for example in order to foster cross-border trade.

2.3.4. Do you agree with application of the proposed options for setting reference prices to all entry and exit points (without any separate mechanism for the domestic points, whilst ensuring no discrimination between domestic and cross-border network usage)?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....:

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes, in order to avoid discrimination between network users.

2.4 Pricing of entry- and exit capacity on the transmission network to and from gas storage facilities (see also questions under '9' Locational signals).

2.4.1. Do you agree with proposed option to base tariffs for entry and exit capacity on the transmission network to and from gas storage facilities at an adequate discount to other entry and exit points on the TSO?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

No, we consider that entry and exit capacity on the transmission network to and from gas storage facilities should reflect costs as any other point. When these costs are low they will have a low tariff, but this situation might not always be the case. Therefore we do not understand why an exemption should be made to this infrastructure.

The concept of the cost avoided to the system does not seem valid to us as every single infrastructure avoids costs and it is hard to quantify. For example, having sufficient interconnection capacity can provide additional flexibility from other hubs and might avoid building new storages. Market players should decide what is more economic whether to have underground gas storage or whether to increase interconnection capacity. If both of them reflect the incurred costs, the market will chose the optimal solution.

2.4.2. Do you agree with harmonization of such a discount across all storage points in the EU?

Please reason your answer, including any quantitative evidence, tables and examples. Please also specify, if you believe that harmonization should go even further, e.g. benchmarking absolute entry-exit tariff levels for gas storage sites.

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

No, as mentioned before we consider that discounts are not justified as a default approach. As commented before, the entry and exit capacity on the transmission network to and from gas storage facilities should reflect costs as any other point.

2.4.3. If you prefer harmonization for an 'adequate' discount, which level of such a discount applied to firm capacity level do you advocate?

- a. 0, because....
- b. 0-30%, because.....;
- c. 30-50%, because.....
- d. 50-80%, because...
- e. 80-100%, because....
- f. No opinion or other suggestions, because....

Please give reasons for your answer, including how you would suggest to calculate the discount, including any quantitative evidence, tables and examples, e.g. based on current

practice in EU known to you. Would you propose alternative measures as to those proposed?

No, as mentioned before, we do not prefer any “adequate” discount, and we do not see how this “adequate” discount can be harmonised taking into account the principle of cost reflectivity.

2.4.4. What are your views on harmonization of tariff measures, leading to harmonization of transmission tariff levels across all storage points in the EU (instead of harmonizing a discount across all storage points in the EU)?

Please reason your answer, including any quantitative evidence, tables and examples. Please consider question 2.4.2, where we also asked about your ideas on benchmarking of absolute entry-exit tariff levels for gas storage sites.

As commented before, the entry and exit capacity on the transmission network to and from gas storage facilities should reflect costs as any other point. Therefore, we do not support having a harmonization of tariff levels across all storage points.

3. Revenue recovery (Chapter 3 of the draft Framework Guideline)

3.1. General – interdependency questions.

Introduction.

Revenue recovery (chapter 3), Reserve price for firm standard capacity products (chapter 4.1) and Payable price (chapter 7) cannot be considered separately. The main interaction is that a regime where auctions are used will have a greater level of uncertainty in revenues collected from auctions.

The use of specified in FG chapters 3, 4 and 7 policy options need to work together to meet the objectives of the FG whilst ensuring the TSO recovers their allowed revenues. There is a possibility that in practice there might be under- or over recoveries, especially as a consequence of policy options regarding short term reserve prices and payable price. Therefore there will need to be a Regulatory Account to ensure the TSOs recover their allowed revenues.

3.1.1. Do you agree that the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price are consistent together?

a. Yes, because.....;

- b. No, because.....;
- c. No opinion, because.....

Please give a brief explanation for your answer, including the beneficial and detrimental interactions you see. Would you propose alternative combinations, and if so please reason why?

No, because having short term capacity prices lower on average than long term capacity will lead to under-recovery in many cases as the UK and German experiences show. The under-recovery will have to be collected increasing access tariffs from other points and therefore other users will be supporting an under-recovery they have not caused.

3.1.2. Are the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price properly addressing the ambition for the pricing of transmission capacity to strike the right balance between facilitating short-term gas trading on one hand and providing long-term signals for covering costs and promoting efficient investments on the other?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....;

Please give a brief explanation for your answer, including the beneficial and detrimental interactions you see.

Long term bookings provide stable long term signals for TSOs which are key for investments and security of supply. This fact should be acknowledged and reflected by having long term reserve prices lower than short term ones.

If reserve prices for short term products are lower than those for long term products, shippers will have an incentive to book capacity short term in non congested points. This situation will entail an under recovery (as reserve prices for short term products are set at a lower level than the regulated tariff).

3.2 Regulatory account

3.2.1 Do you agree with the principle to set reference prices to minimise the difference between allowed and collected revenues?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

Under and over recovery should be an exception and not the general rule. Otherwise there will always be cross subsidies and distortions.

3.2.2 Do you agree with proposed level of harmonization of using the regulatory account?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

No. We have some concerns with ACER proposals. In particular, if all the under or over recoveries are equally shared between all entry and exit points there can be cross-subsidies between network users.

For example, in cases where the under recovery is mainly caused by short term tariffs significantly lower than long term ones, it would not be fair to allocate part of this under recovery to network users who are committed long term and are paying the regulated tariff, which if it has been properly calculated it cannot lead to an under-recovery.

We ask for a more neutral approach and that the under and over recoveries are allocated to those network users which are causing it to avoid cross subsidies.

In case the under-recovery cannot be targeted to any network user, then our proposal is to recover these under-recoveries through a variable term (€/MWh) applied to « final consumptions » of each shippers (quantities delivered to transport customers and to distribution networks) as the end consumers are the ones which benefit from having capacity built to receive gas from different

origins or from other markets (hubs). This will be invoiced by the TSOs to all suppliers, and then in return invoiced pass through to customers by suppliers. The main advantages of these proposals are that there are no impacts of under-recoveries to entry tariffs (regulated or reserve price) and there is no impact on competition between suppliers as this is pass through, whether they import gas or they buy on hubs.

3.2.3 Do you agree that NRAs should determine or approve how often and how fast the regulatory account has to be reconciled on a national level, whilst preserving balance between timely cost recovery and sudden adjustments to tariffs?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

In addition, an annual revision might be a good way to avoid high differences between the expected and the actual incomes.

3.2.4 What is your view on including the option to use the Regulatory Account (including the potential over-recoveries from auction premium) to contribute to solving congestion? How could this be done, especially in view of principles of non-discrimination and cost-reflectivity? Please give reasons for your answer, including any quantitative evidence, tables and examples.

3.3. Reconciliation of Regulatory accounts.

3.3.1. Which option for the reconciliation of regulatory accounts do you prefer?

- a. Option 1; because....
- b. Option 2; because....If preferred, what percentage of revenues should be recovered through capacity charges and why?
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

As mentioned in question 3.2.2, we have some concerns with ACER proposals and would like to have a more neutral approach which targets costs and allocates them to the network users that are causing the under recovery (for example when short term is prices much lower than long term).

Having said that and taking into account our previous caveat, our preferred approach will be a commodity tariff applied to the end consumer.

3.3.2. In line with the interdependency discussion above in question 3.1, what are your views on recovering revenues by means of a separate charge set at the start of the gas year with the aim of minimising the amount that goes into the regulatory account? This charge could be based either on gas flows (commodity) or capacity bookings (capacity). Then the regulatory account would be reconciled through the reserve or reference price. See chapter 3 of the draft FG.

We consider that under recovery should be the exception, not the general rule, and it should be adjusted ex-post.

3.3.3. Do you agree with application of the option on reconciling regulatory account to all entry and exit points (both domestic and cross-border)?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....:

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

As mentioned in question 3.2.2, we have some concerns with ACER proposals and would like to have a more neutral approach which targeted costs and allocates them to the network users that are causing the under recovery to the extent it is possible.

3.3.4. Do you agree that the regulatory account should be recovered by splitting the total under- or over- recovery across all entry and exit points in the same proportion as set out in the cost allocation methodology? For example if the cost allocation methodology is a 50:50 split then 50% of all under- or over- recovery will be from the entry points and 50% from the exit points.

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because....

In your explanations please include any quantitative evidence, tables and examples, where appropriate. Would you propose alternative application as to that proposed? Please explain (if relevant) the alternative proposals and reasons why.

No. As mentioned in question 3.2.2, we have some concerns with ACER proposals and would like to have a more neutral approach which targeted costs and allocates them to the network users that are causing the under recovery to the extent it is possible. To the extent this is not possible, we believe the under-recovery should be allocated to the end consumers (exit).

4. Reserve prices (Chapter 4 of the Framework Guideline)

NB: when answering, please specify if your answer differs for daily, monthly and/or quarterly products.

4.1 General.

4.1.1 Do you consider it sufficient to have rules on firm, interruptible and non-physical backhaul capacity products or are you aware of other capacity products that should be addressed in the FG?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

4.2 Reserve prices (firm)

4.2.1 Do you agree with proposed level of harmonization?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

Finally, even if capacities on regional networks are not in the scope on the CAM, we would like to create common rules for regional exit capacities to industrial customers and distribution networks, especially concerning the seasonal coefficient applied for monthly capacities. Indeed, we recommend to create coefficients which represent the physical tension of the network: monthly capacity should be less expensive in Summer than in Winter.

4.2.2 Do you agree with proposed option for the Reserve price for short-term products including the possibility that the national regulatory authority may decide to allow for higher short-term prices that may apply (via multiplier higher than one, but not higher than 1.5) if there is risk of *significant* under-recovery of allowed revenues?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion or other view, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed? Please specifically consider the time aspects: how, when and for how long this would apply. Please specifically address if maximum multiplier “1.5” should be set lower or higher, and if in time an EU-wide evaluation, leading to reset possibility of such a maximum multiplier, should be explicitly introduced, or should such a reset possibility only apply to interconnection points where no premia to reserve prices are offered during the auctions. Would you consider that a ‘reset’

possibility for multiplier-levels should be specified at EU-wide level. Also please specify with examples, what in your view to be considered as such a *significant* under-recovery? Please consider also specifically why you believe that risk of significant under-recovery could not be mitigated through use of appropriate seasonal factors.

Long term bookings provide stable long term signals for TSOs which are key for investments and security of supply. This fact should be acknowledged and reflected by having long term reserve prices lower than short term ones.

The balance between risk and reward should be maintained and it should be acknowledged that long term shippers take more risks than short term ones.

If reserve prices for short term products are lower than those for long term products, shippers will have an incentive to book capacity short term in non congested points. This situation will entail an under recovery (as reserve prices for short term products are set at a lower level than the regulated tariff).

Regarding within-day capacity, we also consider it should be higher than longer term products as market players should have an incentive to book the capacity they need beforehand.

4.2.3 Do you agree with application of the proposal on short-term Reserve prices to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....:

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

4.2.4. What criteria would you propose to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please include in your answer your views on use of seasonal factors.

As mentioned in 4.2.2, we consider that the price of short term products should be higher than the price of annual products due to the contribution of the latter to trigger investments.

4.2.5. Would you agree with using Seasonality (or other criteria, which you may suggest) of the systems as criteria to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?

a. Yes, because.....;

b. No, because.....

c. I don't know:

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

4.3 Reserve prices (interruptible)

4.3.1 Do you agree with proposed option to set Interruptible Reserve prices at a discount to firm capacity where the discount is based on the likelihood of interruption, and to recalculate once a year?

d. Yes, because.....;

e. No, because.....

f. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes. Setting interruptible prices based on the probability of interruption is in line with the Gas Regulation.

To recalculate the discount once a year seems reasonable.

4.3.2 If you prefer a fixed discount, which level of such a discount applied to firm capacity level do you advocate?

- a. 0, because....; whereas risk of interruption is.....;
- b. 0-30%, because.....; whereas risk of interruption is.....;
- c. 30-50%, because.....; whereas risk of interruption is.....;
- d. 50-80%, because...; whereas risk of interruption is.....;
- e. 80-100%, because....; whereas risk of interruption is.....;
- f.% (customized value, as above values are chosen arbitrary to allow for a global grouping of answers), because....; whereas risk of interruption is.....; and risk of interruption is calculated as follows:.....

Please give reasons for your answer, including how you would calculate the discount, risk of interruption and link the discount to risk of interruption, including any quantitative evidence, tables and examples. Would you propose alternative measures as to those proposed?

4.3.3 Do you agree with application of the proposed option to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

4.4. Reserve price (backhaul)

4.4.1 Do you agree with proposed level of harmonization?

- a. Yes, because.....;
- b. No, because.....

c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

4.4.2 Do you agree with proposed option to set backhaul prices at a discount to firm capacity level so that Reserve prices reflect the level of actual marginal costs (= IT and administrative costs)?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed? Please also specifically address and propose mitigation of consequences of such a policy to existing forward flow shippers as well as positive contribution to potentially reduced need for additional capacity construction.

4.4.3 Do you agree with application of the proposed option on backhaul capacity pricing to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

5. Virtual IPs

Do you support the proposed option for Reserve price in Virtual IPs as EU-wide standard? Please reason your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation.

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

We favour the virtualization of IPs :

- when there are different physical interconnection points between two virtual hubs,

-When different TSOs have shares and sell capacities on the same physical points.

They should organize themselves to provide the market with a “one stop shop” access to IP between hubs (and even with nomination process).

This would strongly simplify the access to transmission networks and foster competition among the suppliers on different markets.

6. Bundled capacity products

6.1 Reserve price (Bundled)

6.1.1 Do you agree with proposed level of harmonization?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

6.1.2. Do you agree with the proposed option that the sum of Reserve prices for unbundled capacity is used as bundled Reserve price?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

6.1.3 Do you agree with application of specified the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....:

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes. Bundle products are just applied at interconnections between member States.

6.2. Do you support the proposed option for Reserve price (if unbundled) as the EU-wide standard? Please give reasons for your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation. We encourage you to specify if you support the Unbundled Reserve price being higher to support bundling of products.

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Would you propose alternative measures to those proposed?

6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.

6.3.1 Do you agree with proposed level of harmonization in that approach above?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

6.3.2 Do you agree with proposed option for splitting auction revenues from bundled products to the relevant TSOs?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

To split the revenues from the reserve price bundle capacity proportional to the entry and exit reserve prices is reasonable.

Regarding the split of the premium, we consider that the 50/50 split is more convenient as a default rule.

6.3.3 Do you agree with application of the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

- a. Yes, because...
- b. No, because...
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

Yes.

7. Payable price

7.1.1 Do you agree with proposed level of harmonization?

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed, please also consider the link to question 3.1?

Yes. Harmonising the payable price avoids distortions.

7.1.2 Do you agree with the proposed option to set payable price equal to the current Reserve price for year in which capacity is used plus any premium?

- a. Yes, because...
- b. No, because.....
- c. I don't know.

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

No. We consider it would be more convenient to have fixed tariffs (instead of premium fixed), or at least linked to a pre-defined variable such as inflation or with the same parameters used to adjust the TSO revenues or costs. Fixed tariffs will allow network users the option of hedging their exposure to access tariff risk and provide more certainty to both network users and TSOs.

It should be noted that network users face significant risks when committing long term and they should be the ones to decide the price risk they are ready to assume. If the premium is fixed but not the reserve price, shippers will face regulatory risk. Unfortunately, they are not able to manage this risk which can affect their commercial position.

7.1.3 Do you agree with the application of specified options regarding payable price to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

- a. Yes, because...
- b. No, because...
- c. No opinion, because.....

Please reason which Option you prefer, including any quantitative evidence, tables and examples. Would you propose alternative measures as to those proposed?

Yes.

8. Incremental capacity (no explicit chapter in draft FG, implications at least to chapters 2/3 foreseen).

In EC letter ACER is invited to consider in the Impact Assessment if tariffication principles should be developed in the Framework Guideline for Incremental Capacity.

Incremental capacity is defined as capacity that is provided (by investment) on top of capacity at an existing IP, after a 'market test' has been met. The market test sets out what the criteria are for providing incremental capacity. The key issue from 'incremental capacity' for tariffication is that incremental capacity can expose consumers to costs incurred by TSOs which may be problematic if incremental capacity costs are not fully recovered by users triggering the capacity provision as a result of the market test.

Therefore it is very important how economic test(s) (principles) are constructed at country- or even broader EU level, to get a balance between timely increases in capacity, efficient increases in capacity and under-recovery of revenues.

We note that in CEER-roundtable 2012 discussions on Incremental capacity experts have noted that harmonization of the specific parameters in the market test might not be needed, but rather a

consistent approach to the principle of having a market test to trigger Incremental capacity may be needed at the EU level⁷.

8.1. Please provide evidence of concrete problems with the current arrangements for incremental capacities, whereas these problems affect tariff structures in EU. Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

The open season processes have allowed to identify projects to increase interconnection capacity between Member States in a coordinated way by several TSOs. However, we consider there are areas for improvement:

- **Tariff visibility:** The methodology to set tariffs should be established before being required to make binding bids. All players should be able to replicate the model.
- **Cost reflectivity:** Investment costs incurred by TSOs should be efficient.
 - There must be complete transparency in, and justification for projected investment costs. There must be clear evidence from the TSOs that their costs are efficiently incurred.
 - TSOs should provide details of the investments linked to the incremental capacity (km, diameter of pipelines, compressor station, etc.) and their costs to allow network users to objectively check whether TSO incurred costs are efficient.
 - ACER should provide a benchmarking of investment costs among EU TSOs and NRAs should also provide information on average investment costs of their respective national TSOs.
 - When significant deviation in costs exists (over 20%), a motivation should be provided by TSOs and by NRAs.
- **Cost allocation** should be transparent and not discriminatory.
 - Moving artificially to one or several points of the system cost recovery, like to a national geographic border could hinder cross-border trade be discriminatory and a barrier to new competitors.

⁷ Please consider the ongoing consultation on Incremental capacity issues by CEER, available via http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/Investment%20Procedures%20for%20Gas%20Infrastructure . Please also note that ACER will work with CEER during 2012 to further analyze the issues in this area.

8.2. Please therefore consider if harmonization, or partial harmonization of any parameters in the “market test” is appropriate within Tariffication principles at EU-level ?

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please e.g. specifically address if FG/NC should set minimum and maximum thresholds for such a “market test”, whilst NRAs would set actual thresholds at national level. Please also address how such thresholds for a “market test” should take account of positive externalities (such as Security of Supply), as well as of the risk that incremental capacity can expose consumers to costs incurred by TSOs which may be problematic if incremental capacity costs are not fully recovered by users triggering the capacity provision as a result of the market test.

There should be clarity regarding what triggers the investment decision with a transparent and well defined economic test. In this regard, a harmonized wide investment test should apply to all cross-border incremental capacity.

- The investment test should take into account grants to the project, and potential income from congestion rents. The cost of the investments used for the national transmission system should not be included in the investment test of the interconnection. The same should apply for investments linked to comply with the Gas Security of supply regulation. In case some infrastructure is used for both the interconnection and the national transmission system, just the proportion of the cost linked to the interconnections should be included in the investment test.
- The threshold to approve the investment should be set ex-ante. ACER will determine the maximum threshold that can be required by TSOs and NRAs to approve the investment.
- There must be complete transparency and justification for predicted investment costs. There must be clear evidence from the TSOs that their costs are efficiently incurred as explained in 8.1.
- There must be complete transparency on the methodology to calculate the reserve price of the incremental capacity.

8.3. Are there any other elements required in the Network Code on transmission tariff structures, to accommodate incremental capacity offer (e.g. influence on regulatory accounts, regulatory periods length, requirement for a fixed for period of years tariffs).

Please give reasons for your answer, including any quantitative evidence, tables and examples⁸.

9. Usage of locational signals (no explicit chapter in FG, implications at least to chapters 2/3/4 foreseen).

Locational signals are considered to contribute to shippers using the system in a way which minimises future costs. Locational signals can be defined as specific tariff measures for specific entry or exit points in the system.

In EC letter ACER is invited to consider in IA if locational signals should be developed in the Network Code on transmission tariff structures. For example to address decisions on locating gas-fired power plants and/or gas storages and/or LNG terminals.

9.1 Please provide evidence of concrete problems with the current arrangements for locational signals. Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

9.2. Are there any other elements required in the Network Code on transmission tariff structures to accommodate locational signals?

Please give reasons for your answer, including any quantitative evidence, tables and examples.

⁸ Please specify per below option, if your answer differs, if the approach to Incremental capacity identification (and, where applicable, allocation) would be based on 1 of the following options:

- Open Seasons (according to 2007 GGPOS),
- Coordinated Open Seasons (in light of the experience gained in the years since 2007)
- Identification via TYNDP, GRIPs and/or national TYNDPs,
- Regular integrated capacity auction for incremental and existing capacity,
- Incremental capacity auction if demand is identified in a regular process, and
- One time integrated auctions.

9.3. Please consider whether the chapter on ‘Reference price’ should have more options added in regard to use of locational signals. Please consider specifically how tariff structures can be used to signal investment for e.g. gas-fired power plants, storages, LNG terminals, etc.

Please give reasons for your answer, including any quantitative evidence, tables and examples.

9.4 Shorthaul as a form of ‘locational signal’ in e/e systems.

Recent THINK-study, commissioned by European Commission, recommended ‘some harmonization in natural gas transmission tariffication to ensure that the breakdown of costs among grid users and among entry- and exit points respects the principle of cost-reflectiveness as much as possible. Adequate discounts on short-haul transports should be encouraged’⁹.

Entry-exit systems require users who want to take gas onto the system and deliver it to others in the system to buy entry capacity (to allow them to flow gas from the entry point to the virtual hub) and exit capacity (to allow them to flow gas from the virtual hub to the exit point). If users want to flow significant volumes of gas from an entry point to a nearby exit point they may consider building their own pipeline between the two points if that is cheaper for the user than paying for entry and exit capacity plus any additional revenue recovery charges (as their own pipeline would also be subject to less onerous tariff regulation in general). Building additional pipelines when there is capacity available on the system may not be the most efficient way to develop the network. Whilst it must be considered that permitting construction of such a pipeline might not be a realistic option in all EU Member-States. E.g. in GB a user could decide to locate a CCGT (= Combined Cycle Gas Turbine power plant) 1 km from a large entry point and decide to build their own pipeline from the large entry point to their CCGT. This is an example of how such a concern arises in practice, stemming mainly from inefficiency of constructing an additional pipeline.

9.4.1. Should the FG have a tariff structure in place to avoid the incentive for inefficient building of pipelines (to avoid the entry-exit system charges) described above?

- a. Yes, because.....
- b. No, because.....

⁹ See summary under weblink: <http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf>

c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples.

9.4.2. How could this tariff structure be designed?

Please propose wording for a policy option (if needed).

9.4.3. Should there, in order to address risk of cross-subsidies and discrimination - be a limitation on the capacities that can be “shorthaul capacities”? Based on expert advice on current EU-practices, following options are proposed:

- a. Maximum 50 km (only distances of maximum 50 km can be considered as shorthaul capacities)
- b. Max 20% of the average gas travelling distance in the E/E system
- c. Max 10% of the total capacities of a E/E system can be considered as “shorthaul”
- d. Other, namely:.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please specifically address who should pay the difference between the shorthaul tariff and the overall tariffs.

9.5 Specific treatment of LNG (if any) considered, in view of considering specific storage treatment (see questions under 2.4).

LNG competes with the natural gas from other sources, like national production points or other entry points. It could therefore be argued that any discount on the entry and exit tariffs at points where CAP applies could produce a cross-subsidy, reducing cost reflectivity of system as a whole, and resulting in a discriminatory effect on the cross-border trade between LNG- and IP entry users. In addition, storage – contrary to LNG - is mostly considered as part of the system, as it uses gas, which has already ‘paid e/e fees’. Namely, gas injected into underground storages have flowed across the system, which means it has been charged entry/exit fees, this is not the case for LNG which is stored after it has been unloaded from LNG-ship cargoes, before any entry fee on the transmission system is charged.

On other hand, it could be argued that LNG and Storage are both valuable flexibility tools in some EU gas market systems (especially in systems where LNG is due to geology & geographical situation potentially the only source of flexible gas) for shippers that should be stimulated, and similar to storage special treatment could be envisaged (contrary to gas production entry points, which with very few exceptions in EU, deliver much less flexibility in comparison to LNG). It must be also considered that – with similar logic – special treatments might be required by any end-user with flexibility for the system (e.g. power plants). In any case, justification is sought, as any special treatment must be reasoned and justified for a category of e/e points, to ensure non-discrimination.

9.5.1. Do you think that tariffs for entry and exit capacity from the LNG terminal could incorporate a discount relative to other entry and exit tariffs on the TSO, similar to the proposed option for underground gas storage?

- a. Yes, because...
- b. No, because....
- c. No opinion, because....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please specifically address who should pay the difference between such a special tariff and the overall tariffs.

No, LNG should not have any special treatment. Access tariff should reflect costs and no special treatment should be set for LNG or storages.

Market players should decide what is more convenient and economic to their interests whether to have further interconnections or a new LNG plant. If artificial assumptions are made regarding the contribution to some infrastructures over other there will be distortions.

10. Effects Entry-Exit Zone mergers & Virtual IPs (no explicit chapter in FG, implications at least to chapters 2/3 foreseen).

In the CAM network code (art 5.1(10)) Virtual Interconnection points are addressed (see draft FG, chapter 5).

In EC letter ACER is invited to consider in IA if the effects of entry-exit zone mergers should be developed in the Network Code on transmission tariff structures. This could address, for instance,

the topics of tariff alignment and the disappearance of interconnection points, and the corresponding cross-border tariffs, due to the zone merger’.

Both topics affect the setting of reserve prices at IPs and, more importantly, underlying cost allocation within and between entry-exit zones; as well as revenue recovery consequences.

10.1. Please provide evidence of concrete problems with the current arrangements for mergers of entry-exit zones at national level. Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

To encourage integration between the markets, balancing zones should be merged and interconnection tariffs removed.

The TSO should be cost neutral; therefore, the lack of revenues coming from interconnections should be recovered through other points of the system. The cost allocation should be fair and all points, domestic and cross border should be treated equally as all of them benefit of having access to a larger zone. Gas Natural Fenosa proposes to articulate a compensation mechanism between the balancing zones which takes into account actual flows. The difference should be socialized taking into account who benefits from more integration, competition and security of supply.

It is worth noting that in the electricity market tariffs are, in the main, charged on load rather than generation, which is particularly advantageous in facilitating cross-border trading and market integration.

10.2. Please advise, if there are alternatives or additional requirements within Tarification setting harmonization steps, to accommodate ‘Effects Entry-Exit Zone mergers’ (once there). Please consider the Initial (draft) Impact assessment, when answering.

Please give reasons for your answer, including any quantitative evidence, tables and examples.

- 11. What additional tariff structure measures do you envisage could improve the network code?**
Please give reasons for your answer, including any quantitative evidence, tables and examples. Please also, if relevant, suggest and explain reasons why any of the proposed measures should rather have been left to voluntary exchange of best practices at national level (e.g. via Guidelines of Good Practice)¹⁰.
- 12. Please share below any further comments concerning the draft Framework Guideline.**
- 13. Please comment on any factual incorrectness of the attached Initial (draft) Impact Assessment, if possible with specific page references, including quantitative evidence, tables and examples from your experience in the gas market(s) (if necessary, subject to confidentiality).**

Thank you very much for your contribution, and do not hesitate to contact ACER staff if you have any questions regarding the questions.

¹⁰ Please e.g. specifically consider if the FG/NC should include an EU-wide provision providing for “incentives” for implementation of CMP measures, and or additional EU-wide provisions ensuring that transmission system operators do not experience detrimental effects as consequence of the roll-out of EU-wide implementation of the auctions under CAM NC and/or other NC.